

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Tariff Filings of Union)
Electric Company, d/b/a Ameren Missouri, to) Case No. ER-2011-0028
Increase Its Revenues for Retail Electric Service.)

**STAFF’S REQUEST FOR RULINGS ON THE OBJECTIONS FROM
THE DEPOSITION OF LENA MANTLE ON APRIL 25, 2011**

COMES NOW the Staff of the Missouri Public Service Commission (Staff), by and through Staff Counsel’s Office, and respectfully request the Commission certify and rule upon Staff’s objections made during the April 25, 2011 deposition of Lena Mantle.

In support of its request, Staff states the following:

1. On April 13, 2011, Union Electric Company d/b/a Ameren Missouri (Ameren Missouri) counsel Thomas Byrne, deposed Staff witness Lena Mantle for a little less than two hours. The subject matter for the April 13th deposition was Staff’s position regarding the fuel adjustment clause (FAC), in particular focusing on Staff’s position regarding the sharing mechanism percentage.

2. These same topics were addressed in Ms. Mantle’s prefiled testimony. Ms. Mantle states in Staff’s Cost of Service Report filed on February 8, 2011 that, “Staff took into consideration . . . (2) Ameren Missouri’s request for additional revenue in its true-up filing for AP1 based on an assertion that the FAC NBFC established in the 2008 rate case are too high; . . .” (Staff Ex. 203, p. 111).

3. These topics were addressed two days later, when Ms. Mantle filed surrebuttal testimony reiterating Staff’s position regarding the sharing mechanism percentage and responded to Ameren Missouri’s witnesses, Steve Wills, Jaime Haro, Lynn Barnes, and Gary Rygh positions regarding the FAC.

4. Ameren Missouri then sought, against Staff's opposition, to depose Ms. Mantle for the second time in this proceeding. The Commission in its April 18, 2011 Order stated "it is reasonable for Ameren Missouri to question Ms. Mantle about new allegations and new positions set out for the first time in her surrebuttal testimony filed on April 15 after her initial deposition." On April 22, 2011, the Commission issued an order requiring Ms. Mantle to appear at the deposition.

5. On April 25, 2011, Ameren Missouri's counsel, James Lowery, deposed Ms. Mantle for approximately 5 ½ hours. Based upon the Commission's April 22, 2011 Order, the deposition was to be narrowly tailored to new allegations or positions made in Ms. Mantle's surrebuttal testimony. Staff Counsel had a running objection during this second deposition to Counselor Lowery's extensive line of questioning regarding File No ER-2010-0274 (commonly referred to as "the true-up case") because he repeatedly ventured into questions that were directly related to Staff's position as raised in its direct case and a subject matter explored during Ms. Mantle's first deposition.

6. Staff objected to opposing counsel's extensive line of questioning regarding "true-up case". During Ms. Mantle's April 13, 2011, deposition, Counselor Byrne questioned Ms. Mantle regarding Staff's position on the sharing mechanism and even more specifically question on case with File No. ER-2010-0274. (See Attached April 13, 2011 Deposition of Lena Mantle, p. 45, line 19 – p. 51, line 4). This issue is not addressed as a new allegation in her surrebuttal testimony.

7. Ameren Missouri had the opportunity to question Ms. Mantle in her first deposition regarding her consideration of File No. ER-2010-0274, and it took that opportunity. Ms. Mantle's second deposition was to be narrowly tailored and restricted

to new allegations and new positions, not to revisit topics previously covered in her direct testimony or her first deposition. (See Attached April 25, 2011 Deposition of Lena Mantle, p. 6, line 4 – 190, line 22).

8. The Court may act upon its own initiative after reasonable notice or pursuant to a motion, and Rule to Strike any and all information that is deemed not within the narrowly tailored scope and constraints of the second deposition. (Fed. R. Civ. P. 26 5(b)(20)).

9. The Judge should sustain Staff's objection in the second deposition as the questioning was unreasonably, duplicative and burdensome, and the information could and should have been obtained during the first deposition on April 13, 2011. The information the opposing counsel sought to obtain should therefore be stricken from the record as duplicative and not narrowly tailored to the constraints and purpose of the second deposition as ordered by the Commission.

10. The opposing counsel had ample opportunity in the action to obtain the information sought through discovery and should have sought the opportunity during the first deposition. If Counselor Lowery was unsatisfied with Counselor Byrne's questioning regarding File No. ER-2010-0274, than he should have handled it in a different manner and not subject Staff witness Ms. Mantle to five hours of belaboring questioning regarding the merits of another case.

11. The redundancy and reckless abandon to the narrowly tailored purpose and scope of the second deposition outweighs its likely benefit.

12. Further, Staff's position regarding increasing the sharing mechanism percentage took into consideration File No. ER-2010-0274; it did not go into the merits

of a case pending before this Commission. Ameren Missouri has submitted its initial brief, Staff replied to Ameren Missouri's brief, and now Ameren Missouri has the opportunity to submit a reply brief before the case is submitted to the Commission for determination. The parties to File No. ER-2010-0274 agreed and filed a Joint Stipulation of Facts, rather than pre-filing testimony and participating in an evidentiary hearing.

WHEREFORE, Staff respectfully request that the Commission Rule on Staff's objections relating to case with File No. ER-2010-0274 and move to strike any and all questions that are deemed beyond the narrowly tailored scope and limited purpose of the second deposition, because the subject was asked in answered in the April 13, 2011 deposition and the line of questioning was outside the scope of the April 25, 2011 deposition.

Respectfully submitted,

/s/ Jaime N. Ott

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 28th day of April 2011.

/s/ Jaime N. Ott _____